

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

FILED
CLERK OF COURT OFFICE

MAY -2 2005

Civil Action No.
05-10544-JLT

FIRST, LLC, a Delaware Limited Liability Company,

Plaintiff,

v.

TIMOTHY MCARTHUR,

Defendant.

MOTION TO CONFIRM
SETTLEMENT AND
ENTER PERMANENT
INJUNCTION

FIRST, LLC ("FIRST") respectfully request upon the Verified Complaint, the affidavit of Irwin B. Schwartz, pursuant to the stipulation and agreement of plaintiff FIRST, LLC and for good cause shown, that the Court confirm the settlement between FIRST and Defendant Timothy McArthur ("McArthur") and ORDER that:

1. McArthur, his officers, agents, servants, employees, attorneys, and those persons in active concert or participation with him, shall discontinue and be permanently enjoined from publishing NASCAR® 2003 Season source code or any derivative thereof, from reverse engineering, decompiling or disassembling any current or future version of FIRST software or previous, current and future versions of NASCAR® 2003, from assisting anyone in any way to reverse engineer, decompile or disassemble any current or future FIRST software or previous, current and future versions of NASCAR® 2003, and from developing a derivative work, or assisting in any way the development of any program or other mechanism to create a derivative work, of any current or future FIRST software, including current and future versions of NASCAR® 2003;

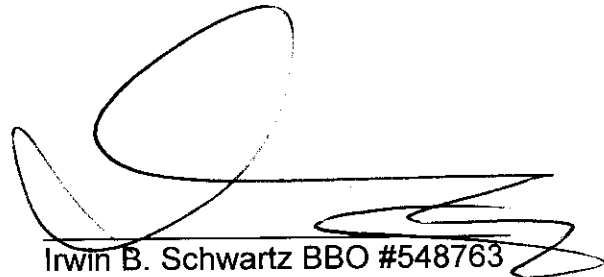
2. Dismiss all remaining claims; and

3. Enter such further and additional relief as the Court deems just and proper.

A proposed order is submitted herewith.

Respectfully submitted,

DATED: May 2, 2005

A handwritten signature in black ink, appearing to read 'Irwin B. Schwartz', is written over a horizontal line.

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